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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGMENT NO.24 OF 2006
IN
SUMMARY SUIT NO.2883 OF 2005

Chandrakant Khemchand Makhija)..Plaintiff

Versus

Situ Shastri and another)..Defendants

Mr.P.S. Anand for the Plaintiff.

None present for the Defendants.

CORAM : SMT. NISHITA MHATRE, J.

DATED : 17TH MARCH 2006

P.C.:

. The Plaintiff has taken out the present Summons for Judgment in respect of a Demand Bill of Exchange executed by Defendant No.1. Defendant No.2 was the acceptor of the Bill of Exchange. The Plaintiff had advanced an amount of Rs.75,000/- against the Demand Bill of Exchange.

2. It appears that some amount has been paid to the Plaintiff. However, from February 2004 the Defendants failed to remit the balance amount of Rs.35,000/- together with interest. The Advocate’s notice dated 29th September 2004 was issued claiming the amount with

18% interest. There is no reply to this notice. It appears that the Plaintiffs have even called upon the Defendants to take inspection of the documents by their Advocate's letter. The Summons for Judgment was served on the Defendants on 2nd February 2006. However, nobody appears for the Defendants nor is any reply filed. The learned Advocate for the Plaintiff undertakes to file the affidavit of service during the course of the day. The Plaintiff had advanced an amount of Rs.75,000/- against the Demand Bill of Exchange.

3. I am of the view that the Defendant should be given an opportunity to defend the Suit. Conditional leave granted to the Defendants on the Defendants depositing Rs.58,192.85 in this Court within four weeks from today failing which the Plaintiffs will be entitled to a decree.

4. If the Defendants deposit the amount as aforesaid, Prothonotary & Senior Master to invest the same in a Fixed Deposit of a Nationalised Bank initially for a period of three years, to be renewed thereafter till the pendency of the Suit. Suit to be transferred to the list of Commercial Causes.